

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SPECTRUM DYNAMICS MEDICAL
LIMITED,

Plaintiff,

-against-

GENERAL ELECTRIC COMPANY et al.,

Defendants.

ORDER

18-CV-11386 (VSB) (KHP)

KATHARINE H. PARKER, UNITED STATES MAGISTRATE JUDGE:

On May 18, 2023, Plaintiff filed a letter motion for leave to file excess pages (ECF No. 662), a letter motion to seal (ECF No. 663), and a letter motion challenging defendants' claw-back and seeking to pierce the attorney-client privilege based on the crime-fraud exception (ECF No. 664). On May 19, 2023, Defendants filed a letter motion for an extension of time to respond to Plaintiff's motion. (ECF No. 666.)

As an initial matter, the Court notes that Plaintiff's submissions do not comply with the Court's Individual Rules, which state:

Any party wishing to raise a discovery dispute with the Court must first confer in good faith with the opposing party . . . If this meet-and-confer process does not resolve the dispute, the party may submit an ECF letter-motion . . . **no longer than 3 single-space pages, explaining the nature of the dispute and requesting a conference.** . . . Any responsive letter should be submitted within 3 business days after submission of the letter-motion. **The Court will endeavor to resolve the issue during a conference without the need for formal briefing.** However, if formal briefing is required, the Court will set a schedule for such briefing at the conference.

Individual Practices in Civil Cases, Katharine H. Parker,¹ (emphasis added). Moreover, nothing in the Individual Rules exempts parties from abiding by the Court's Rules merely because the

¹https://www.nysd.uscourts.gov/sites/default/files/practice_documents/KHP%20Parker%20Individual%20Practices%20in%20Civil%20Cases.pdf

motion is filed under seal pursuant to a provision of the parties' Protective Order. In the future, the parties shall comply with the Court's Individual Rules regarding any discovery dispute or other letter motion that is before the undersigned.

Nevertheless, the Court finds that Plaintiff has raised a discovery dispute for which formal briefing is necessary. Accordingly, Plaintiff shall file a formal motion and opening brief on the issue of piercing the attorney-client privilege by **Monday, May 29, 2023**. Defendants' opposition is due on **Monday, June 26, 2023**; and Plaintiff's reply is due on **Monday, July 10, 2023**. The opening and opposition briefs are limited to 25 pages in length, double spaced. The reply is limited to 10 pages double spaced. The parties are discouraged from filing excessive exhibits to the briefing.


To the extent the parties' briefing and/or exhibits include confidential information, the parties are reminded that any motions to seal such information must be narrowly tailored to protect the confidential information. Motions seeking to file entire briefs and exhibits under seal, rather than proposing narrow redactions, will be denied.

As to the motion to seal at ECF No. 663, the Court finds that the requested sealing is in keeping with the principles of *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 124 (2d Cir. 2006) and its progeny. Accordingly, the Court GRANTS the motion, except to the extent that Plaintiff seeks to file the entirety of its 20-page letter motion at ECF No. 644 under seal. Plaintiff is directed to publicly file a version of the letter motion that redacts the confidential information but permits the public to view the non-confidential legal arguments. Spectrum shall publicly file this document by **Friday, May 26, 2023**. As Plaintiff has already publicly filed the non-confidential exhibits at ECF No. 665, it is not required to re-file any exhibits.

The Clerk of the Court is respectfully requested to terminate the motions at 662, 663, 664, and 666.

SO ORDERED.

Dated: May 19, 2023
New York, New York



KATHARINE H. PARKER
United States Magistrate Judge